

JOHN A. BLACKHURST

IBLA 83-188

Decided January 24, 1983

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas application M 55297.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease application is properly rejected where the application is dated prior to commencement of the filing period.

APPEARANCES: John A. Blackhurst, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

John A. Blackhurst has appealed the November 9, 1982, decision of the Montana State Office, Bureau of Land Management (BLM), which rejected his simultaneous oil and gas lease application M 55297 because the application was dated May 2, 1982, prior to the first day of the simultaneous filing period. Blackhurst's application had been drawn with first priority for parcel MT 66 in the May 1982 simultaneous filings.

Appellant states he dated his application May 2, 1982, knowing that it could not be delivered to BLM before 9 a.m., May 3, 1982. His action of dating the application was involuntary, with no intent to make an illegal filing.

Regulation 43 CFR 3112.2-1(c), 45 FR 35163 (May 23, 1980), states in part: "The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period."

[1] It is well established that a simultaneous oil and gas lease application which is not properly dated in the space provided on the card must be rejected. Sorenson v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978), aff'd Walter M. Sorenson, 32 IBLA 345 (1977). Because appellant's application was dated prior to the opening date of the filing period, the application must be rejected. David B. Perry, 67 IBLA 171 (1982); Charles Y. Neff, 64 IBLA 234

(1982); Leonard Thompson, 62 IBLA 236 (1982); Herbert W. Winston, 61 IBLA 199 (1982). Because the pertinent regulation specifically requires the signature be impressed upon the simultaneous application during the filing period, the holding of the court in Ahrens v. Andrus, 690 F.2d 805 (10th Cir. 1982), may be distinguished as that case arose under the former regulations governing simultaneous filings. Strict compliance with the regulations governing the drawing, 43 CFR Subpart 3112, is enforced to protect the rights of the second- and third-drawn qualified applicants. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). This regulation has been applied consistently since the current controlling regulation, 43 CFR 3112.2-1(c), became effective on June 16, 1980. 43 FR 35156 (May 23, 1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Gail M. Frazier
Administrative Judge

